

## REMARKS

This amendment is being filed together with a Request for Continued Examination under 37 U.S.C. § 1.114. Claims 36 to 65 are pending in this patent application. Claims 36, 39 to 41, 45 to 47, 50, 51, 54 to 56, 60 to 62 and 65 are amended herein, without prejudice. No claims are added or canceled herein.

### ***Rejection Over The Duan Patent***

Claims 36 to 65 stand rejected under 35 U.S.C. § 102(b) over Duan, et al., U.S. Patent No. 5,725,841 ("the Duan patent"). Although Applicants respectfully disagree with the Examiner that this rejection is proper, in the interest of advancing prosecution of this application, Applicants have amended the pending claims by deleting reference to derivatives of amino acids.

The Duan patent does not teach the use of amino acids, but only the use of linear, branched or cyclic *polypeptides*, comprising between 3 and about 40 monomer units. (Duan at column 2, lines 44 to 60 and column 4, line 33.) Thus, there is no teaching or suggestion in the Duan patent of compositions comprising a particulate medicament, a propellant, and an amino acid that is different from the medicament, as recited in the pending claims.

Accordingly, Applicants respectfully submit that the pending claims patentably define over the Duan patent, and request that the rejection under 35 U.S.C. 102(b) over that patent be withdrawn.

### ***Rejection Over The Clark Patent***

Claims 36, 37, 39 to 48, 50 to 52, 55 to 63 and 65 stand rejected under 35 U.S.C. § 102(e) over Clark, et al., U.S. Patent No. 6,655,379 ("the Clark patent"). Applicants respectfully disagree with the Examiner, at least for the reasons set forth in the response submitted February 21, 2006. However, since the Examiner has maintained this rejection, Applicants submit herewith a declaration under 37 C.F.R. § 1.131 which establishes a date of invention prior to the earliest claimed priority date for the Clark patent.

Submitted herewith is a Declaration Of Paul A. Dickinson, Ph.D. pursuant to 37 C.F.R. § 1.131 ("the Dickinson Declaration"). In this declaration, Dr. Dickinson, one of the named inventors, establishes that the claimed subject matter was invented prior to March 16, 1998, the filing date of the two provisional applications to which the Clark patent claims

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**PATENT**

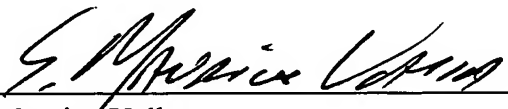
priority. As supporting evidence, the Dickinson Declaration includes a true and complete copy of a letter that Dr. Dickinson received from his counsel, Ms. Susan Thomas, prior to March 16, 1998. Enclosed with that letter, and also included in the Dickinson Declaration, was a copy of a draft patent application that describes the invention recited in the instant claims. That draft patent application, with some revisions, was filed in the Great Britain Patent Office on April 3, 1998, as GB 9807232.5, the original priority application for the instant case.

Since Applicants have established that their claimed subject matter was invented prior to the earliest possible effective filing date of the Clark patent, that patent is not prior art to the instant claims. Accordingly, the rejection under 35 U.S.C. § 102(e) over the Clark patent should be withdrawn.

#### **CONCLUSION**

The foregoing represents a bona fide attempt to respond to all of the pending rejections and thereby to define allowable subject matter.

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